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March 19, 1996

William F. Caton
Federal Communications Commission
1919 M Street, N.W., Room 122
Washington, D.C. 20554

**Re: Written Ex Parte Communication in
CC Docket No. 95-185**

Dear Mr. Caton:

The attached position paper was sent today to the FCC staff members listed below. Please call me if you have any questions.

Respectfully submitted,

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Vice Pres., Industry Affairs

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**THE COMMISSION SHOULD ADOPT NATIONWIDE TERMINATING
COMPENSATION MECHANISMS FOR BROADBAND AND NARROWBAND
CMRS-LEC INTERCONNECTION
CC DOCKET NO. 95-185**

This proceeding presents the Commission with an historic opportunity to allow wireless providers to offer a wide variety of new interconnected services at competitive prices, including local exchange service. Strong leadership is needed, however, to counteract the tremendous leverage of local exchange carriers ("LECs").

- **EXISTING COMPENSATION SCHEMES ARE UNFAIR TO WIRELESS PROVIDERS AND STIFLE COMPETITION**
 - Every broadband CMRS interconnection agreement forces the mobile carrier to pay the LEC to terminate mobile-originating traffic, but does not obligate the LEC to pay the mobile carrier for terminating LEC-originating traffic.
 - Paging carriers currently pay LECs for the "privilege" of terminating landline-originating traffic. They receive no compensation whatsoever, even though they generate considerable financial benefits for LECs by stimulating usage of the local telephone network.
- **FOR BROADBAND CMRS, BILL AND KEEP SHOULD BE EXPANDED BEYOND LOCAL SWITCHING AND CALL TERMINATION**
 - The Commission's proposal does not go far enough.
 - Under the proposal, as under current interconnection agreements, broadband CMRS providers still would pay transport and tandem-switching charges on landline-terminating calls, even though they would not receive compensation for similar functions in their networks on mobile-terminating calls.
 - In addition, broadband carriers still would be required to pay the full cost of entrance facilities, even though such facilities handle two-way traffic and therefore benefit both carriers.
 - PCIA's proposal remedies these deficiencies by requiring zero-cost termination of traffic by both parties (*i.e.*, each party bears its own transport, switching, and local loop costs), and the shared cost of entrance

facilities.

- This expanded bill and keep proposal serves the public interest by:
 - Encouraging efficient network design.
 - Giving wireless carriers greater leverage in interconnection negotiations.
 - Recognizing that LEC-CMRS traffic flows are approaching equality -- and, more importantly, removing an obstacle to true equality.
 - Avoiding administratively and technically complex alternatives.
- **NARROWBAND CMRS PROVIDERS ARE ENTITLED TO TERMINATING COMPENSATION**
 - Because all LEC-narrowband calls are mobile terminating, a bill and keep scheme fails to provide narrowband providers with *any* compensation, despite the fact that their networks are used intensively.
 - However, narrowband CMRS must be included in any fair compensation scheme because such providers use their networks to terminate landline-originating calls, producing significant financial benefits for LECs.
 - The regulatory parity directive of Section 332 compels that terminating compensation rights extend to both broadband and narrowband CMRS providers.
 - Technologically, as providers expand their service offerings and seek to offer one-stop shopping, parity of treatment will become increasingly necessary to assure fair competition.
 - Accordingly, LECs should pay the entire cost of the the trunks connecting the LEC switch to the narrowband switch. In addition, narrowband CMRS providers should be permitted to charge reasonable fees for the use of their networks in terminating calls.
- **THE COMMISSION HAS THE AUTHORITY TO MANDATE BILL AND KEEP FOR ALL INTRA- AND INTERSTATE WIRELESS SERVICES**

- Section 332(c) of the Communications Act of 1934, as amended, represents a broad grant of federal power in the field of CMRS rates and interconnection rights.
 - Section 332(c)(3)(A) explicitly prohibits state regulation of CMRS rates.
 - Section 332(c)(1)(B) empowers the Commission to order LEC-CMRS interconnection pursuant to Section 201, upon the reasonable request of a CMRS provider.
 - Section 332(c)(1)(C) requires the Commission to review competitive conditions in the CMRS market and promulgate rules that promote competition.
- The inseparability doctrine provides an additional basis for preemption.
 - Mobile callers often cross and re-cross state lines while making a single call, making any jurisdictional classification essentially arbitrary.
 - CMRS service areas often encompass multistate areas.
 - CMRS networks are interconnected to form a nationwide "network of networks."
- The Telecommunications Act of 1996 buttresses the Commission's preexisting authority.
 - Under Section 251, the Commission is empowered to promulgate reciprocal compensation rules for LEC-CMRS interconnection. Any state action must be consistent with these federal rules. Moreover, Section 251 explicitly does not disturb the Commission's authority over CMRS-LEC interconnection under Section 201.
 - Section 252 plainly states that bill and keep is a just and reasonable form of terminating compensation scheme.
 - Section 253 expressly leaves the preemption provisions of Section 332(c)(3) intact.

- **LEC-CMRS INTERCONNECTION AGREEMENTS SHOULD BE STAND-ALONE CONTRACTS FILED UNDER SECTION 211**
 - Structuring LEC-CMRS interconnection by contract is consistent with the way landline LECs order arrangements among themselves, and therefore reinforces the co-carrier status of CMRS providers.
 - The Commission retains authority to assure Section 211 contracts are in the public interest, and such contracts may not be abrogated by subsequently filed, unilateral tariffs.
- **CMRS PROVIDERS SHOULD BE COMPENSATED FOR THE USE OF THEIR NETWORKS BY IXCs**
 - In the case of direct CMRS-IXC interconnection, compensation arrangements should be privately negotiated by the parties, without FCC intervention or the filing of access tariffs by CMRS providers.
 - Where interconnection occurs through a LEC, the revenues should be rationally divided between the CMRS provider and the LEC.